

## Message Text

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PAGE 01 BONN 00644 01 OF 03 141724Z

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ACTION EUR-12

INFO OCT-01 PM-04 L-03 ISO-00 NSC-05 CIAE-00 DODE-00

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R 141711Z JAN 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC 5630

INFO AMCONSUL BREMEN

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AMCONSUL FRANKFURT

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LIMITED OFFICIAL USE SECTION 01 OF 03 BONN 00644

E.O. 11652: N/A

TAGS: ELAB, GW

SUBJECT: STATUS OF GOVERNMENT BILL ON LABOR MANAGEMENT

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PAGE 02 BONN 00644 01 OF 03 141724Z

CODETERMINATION (MITBESTIMMUNG)

REF: BONN 20182; BONN 20114; BONN 19388

1. SUMMARY: SUPPLEMENTING REFTELS THE FOLLOWING DESCRIBES PROVISIONS OF THE AMENDED GOVERNMENT BILL THAT HAS BEEN APPROVED BY THE SPD AND FDP GOVERNMENT COALITION PARTIES AND APPROVED IN PRINCIPLE BY THE OPPOSITION CDU. DURING THE NEXT THREE OR FOUR MONTHS, THE RESPONSIBLE BUNDESTAG COMMITTEES WILL BE WORKING OUT THE SPECIFIC LANGUAGE OF THESE AGREEMENTS IN PRINCIPLE AND THE PRESENT GOAL IS TO PASS THIS BILL BEFORE THE BUNDESTAG SUMMER VACATION AND, IF POSSIBLE, IN MAY. END SUMMARY.

2. SCOPE: THE NEW GOVERNMENT DRAFT BILL ON CODETERMINATION APPLIES TO FIRMS WHICH NORMALLY EMPLOY MORE THAN 2000 WORKERS. THE LAW ALSO COVERS CONGLOMERATE FIRMS PROVIDING THAT THE SUBSIDIARY FIRMS TOGETHER EMPLOY MORE THAN 2000 WORKERS. HOWEVER, THE PROVISIONS OF THE 1951 LAW ON CODETERMINATION FOR THE IRON AND STEEL INDUSTRY AND THE 1956 CODETERMINATION SUPPLEMENTARY ACT ARE UNCHANGED. THIS LAW ALSO WILL NOT AFFECT THE EXISTING LAW COVERING FIRMS EMPLOYING LESS THAN 2000 WORKERS, THE INDUSTRIAL RELATIONS ACT OF 1952, WHICH PROVIDES FOR ONE THIRD OF THE MEMBERS OF A COMPANY'S SUPERVISORY BOARD TO BE LABOR MEMBERS.

3. COMPOSITION OF THE SUPERVISORY BOARD: SUPERVISORY BOARDS OF FIRMS COVERED BY THIS DRAFT BILL ARE COMPOSED OF EQUAL NUMBERS OF SHAREHOLDER AND LABOR MEMBERS. THE SIZE OF THE SUPERVISORY BOARD IS DETERMINED BY THE NUMBER OF WORKERS EMPLOYED. FOR EXAMPLE:

A) IN FIRMS EMPLOYING 2000 TO 10000 EMPLOYEES, THE SUPERVISORY BOARD HAS 12 MEMBERS (SIX REPRESENTING THE SHAREHOLDERS AND SIX REPRESENTING THE EMPLOYEES). THE SIX LABOR REPRESENTATIVES SHALL INCLUDE FOUR EMPLOYEES OF THE FIRM INCLUDING AT LEAST ONE BLUE COLLAR WORKER (ARBEITER), ONE SALARIED EMPLOYEE (ANGESTELLTER) AND ONE LIMITED OFFICIAL USE

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PAGE 03 BONN 00644 01 OF 03 141724Z

MANAGEMENT EMPLOYEE (LEITENDER ANGESTELLTER) AND TWO REPRESENTATIVES OF THE TRADE UNION WHICH HAS JURISDICTION FOR THAT FIRM.

B) IN FIRMS EMPLOYING FROM 10 000 TO 20 000 EMPLOYEES, THE BOARD CONSISTS OF 16 MEMBERS. EIGHT MEMBERS WILL REPRESENT THE SHAREHOLDERS AND EIGHT MEMBERS WILL REPRESENT THE EMPLOYEES. THE LABOR

REPRESENTATIVES SHALL INCLUDE SIX EMPLOYEES FROM  
THE FIRM AND TWO UNION REPRESENTATIVES.

C) IN FIRMS EMPLOYING OVER 20 000 EMPLOYEES, THE  
SUPERVISORY BOARD WILL CONSIST OF 20  
MEMBERS. TEN MEMBERS WILL REPRESENT THE  
SHAREHOLDERS AND TEN WILL REPRESENT THE EMPLOYEES.  
THE LABOR REPRESENTATIVES WILL INCLUDE SEVEN  
EMPLOYEES FROM THE FIRM AND THREE UNION REPRESENTATIVES.

FOR FIRMS EMPLOYING OVER 8000 WORKERS, THE ELECTION OF  
LABOR REPRESENTATIVES TO THE BOARD OF SUPERVISORS,  
INCLUDING THOSE EMPLOYED IN THE FIRM AND THE UNION REPRESENTATIVES, WILL BE ELECTED INDIRECTLY BY DELEGATES.

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PAGE 01 BONN 00644 02 OF 03 141728Z

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FM AMEMBASSY BONN  
TO SECSTATE WASHDC 5631  
INFO AMCONSUL BREMEN  
AMCONSUL DUSSELDORF  
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LIMITED OFFICIAL USE SECTION 02 OF 03 BONN 00644

THE EMPLOYEES OF THE FIRM WILL ELECT THESE DELEGATES.  
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PAGE 02 BONN 00644 02 OF 03 141728Z

(FOR FIRMS EMPLOYING FROM 2000 TO 8000 EMPLOYEES,  
THE ELECTIONS OF LABOR REPRESENTATIVES WILL BE DIRECT.)

4. CHAIRMAN OF THE SUPERVISORY BOARD: THE BOARD OF SUPERVISORS WILL ELECT A CHAIRMAN AND A DEPUTY CHAIRMAN, ONE FROM THE STOCKHOLDERS' MEMBERS AND ONE FROM THE LABOR MEMBERS. IF A BOARD ELECTS ITS CHAIRMAN AND THE DEPUTY CHAIRMAN BY A TWO THIRDS MAJORITY OF ITS MEMBERS, THEY ARE ELECTED FOR THE DURATION OF THE PERIOD OF OFFICE. IF A TWO THIRDS MAJORITY IS NOT ATTAINED, A SECOND VOTE TAKES PLACE IN WHICH A SIMPLE MAJORITY OF THE VOTES IS SUFFICIENT TO ELECT THE CHAIRMAN. IN THIS CASE, THE CHAIRMAN IS ELECTED BY THE REPRESENTATIVES OF THE SHAREHOLDERS AND THE DEPUTY BY THE LABOR MEMBERS.

5. ELECTION VOTES IN THE EVENT OF A TIE VOTE WITHIN THE SUPERVISORY BOARD: IF EQUAL VOTES ARE CAST IN THE VOTE FOR THE CHAIRMAN OF THE SUPERVISORY BOARD, THE CHAIRMAN OF THE BOARD WILL BE ELECTED BY THE STOCKHOLDERS WHO ARE PROVIDED AN EXTRA DECIDING VOTE IN THE SECOND BALLOTING.

6. BOARD OF MANAGEMENT (VORSTAND): THE MEMBERS OF THE BOARD OF MANAGEMENT ARE NOMINATED BY THE BOARD OF SUPERVISORS BY TWO THIRDS MAJORITY. IF THIS MAJORITY IS NOT ATTAINED, A MEDIATION COMMITTEE COMPOSED OF THE CHAIRMAN AND THE VICE CHAIRMAN AND ONE SHAREHOLDER MEMBER AND ONE LABOR MEMBER HAS TO SUBMIT A RECOMMENDATION TO THE BOARD OF SUPERVISORS. THEN THE BOARD MAKES ITS DECISION BY A SIMPLE MAJORITY

VOTE OF ITS MEMBERS. IN THIS CASE THE CHAIRMAN HAS THE DECIDING VOTE. UNLIKE IN THE CODETERMINATION LAW IN THE COAL AND STEEL INDUSTRY, THE ELECTION OF THE INDUSTRIAL RELATIONS DIRECTOR REQUIRES NO SPECIFIC MAJORITY AND THUS DOES NOT REQUIRE SPECIFIC LABOR APPROVAL. (HOWEVER, IN MOST CASES, AN INDUSTRIAL RELATIONS DIRECTOR WHO HAS SATISFACTORY RELATIONS WITH LABOR WILL LIKELY BE SELECTED.)

7. ELECTION OF LABOR REPRESENTATIVES TO THE BOARD OF LIMITED OFFICIAL USE

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PAGE 03 BONN 00644 02 OF 03 141728Z

SUPERVISORS: THE LABOR REPRESENTATIVES ON THE BOARD OF SUPERVISORS CONSIST OF REPRESENTATIVES OF WORKERS (ARBEITER), SALARIED EMPLOYEES (ANGESTELLTE), AND MANAGEMENT EMPLOYEES (LEITENDE ANGESTELLTE). EACH GROUP NOMINATES THEIR REPRESENTATIVES. THERE ARE TWO POSSIBLE CASES. IN THE FIRST CASE, ALL THREE GROUPS CAN AGREE ON A COMMON ELECTION (THIS IS THE EXCEPTIONAL CASE). IN THE SECOND CASE, EACH GROUP NOMINATES AND ELECTS ITS OWN REPRESENTATIVES. THE ELECTIONS OF WORKERS AND SALARIED EMPLOYEE REPRESENTATIVES MAY BE EITHER DIRECT OR BY PROPORTIONAL REPRESENTATION. IN CASE WORKERS ARE ELECTED DIRECTLY, THE NOMINATED SLATE MUST BE PROPOSED BY AT LEAST ONE FIFTH OF THE FIRM'S EMPLOYEES OR 100 PERSONS AND THE NUMBER OF CANDIDATES MUST CONTAIN TWICE THE NUMBER OF CANDIDATES AS THERE ARE POSITIONS BEING ELECTED. IN THE CASE TWO OR MORE SLATES ARE NOMINATED, EACH SLATE MUST BE SUPPORTED AT LEAST BY ONE FIFTH OF THE WORKERS OR 100 PERSONS AND THE ELECTED PERSONS ARE SELECTED BY PROPORTIONAL REPRESENTATION. THE MANAGEMENT EMPLOYEES NOMINATE TWO PERSONS. HOWEVER, THESE TWO PERSONS MUST BE PRE-

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PAGE 01 BONN 00644 03 OF 03 141729Z

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INFO AMCONSUL BREMEN

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LIMITED OFFICIAL USE SECTION 03 OF 03 BONN 00644

SENTED TO THE ENTIRE GROUP OF SALARIED EMPLOYEES FOR  
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PAGE 02 BONN 00644 03 OF 03 141729Z

APPROVAL AND, IN TURN, ONE IS ELECTED BY THE SALARIED  
EMPLOYEES. THE UNION REPRESENTATIVES MAY BE NOMINATED  
BY THE APPROPRIATE INDUSTRIAL UNION BUT MUST BE RATI-  
FIED BY THE EMPLOYEES OF THE FIRM WHEN THE ELECTIONS  
ARE HELD.

8. NUMBER OF FIRMS AFFECTED BY THIS LAW: ALTHOUGH  
THERE HAS BEEN NO COMPLETE STUDY OF THE EXACT NUMBER  
OF FIRMS AFFECTED BY THE LAW, KNOWLEDGEABLE SOURCES

ESTIMATE THAT APPROXIMATELY 600 FIRMS WILL BE AFFECTED.  
IN ADDITION, IT IS ESTIMATED THAT OVER 2000 NEW  
MEMBERS OF BOARDS OF SUPERVISORS WILL BE ELECTED AND  
THAT THIS NEW BILL WILL RESULT IN THE CREATION OF  
ABOUT 600 POSITIONS FOR LABOR REPRESENTATIVES ON COMPANY  
BOARDS OF SUPERVISORS.

9. POLITICAL IMPLICATIONS: IT APPEARS NOW THAT THE  
OPPOSITION CDU PARTY WILL FOLLOW THROUGH ON ITS PUBLIC  
STATEMENTS SUPPORTING THIS DRAFT BILL IN PRINCIPLE.  
HOWEVER, THERE MAY BE PROLONGED NEGOTIATIONS OVER THE  
DETAILED PROVISIONS OF THE LAW. ONE OF THE FACTORS  
THAT MAY AFFECT THE CDU POSITION IS THAT THERE ARE  
SOME INDICATIONS THAT THE LABOR MEMBERS OF THE CDU  
SOCIAL COMMITTEES, IN EFFECT, WILL BE GUARANTEED RE-  
PRESENTATION AMONG THE LABOR REPRESENTATIVES TO BE  
PROPOSED AND ELECTED TO THE COMPANY BOARD OF SUPER-  
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## Message Attributes

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